

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Montieth Analyst: Gloria McConnell Bill Number: SB 685

Related Bills: _____ Telephone: 845-4336 Amended Date: 04-05-99

Attorney: Pat Kusiak Sponsor: _____

SUBJECT: Mailing Notice Before Issuing Levies and Notices of Lien

SUMMARY

Under this bill, if the Franchise Tax Board (FTB) holds the collection of an account in abeyance for more than six months, the FTB would be required to mail a final notice of tax due to the taxpayer before issuing a levy or filing a notice of state tax lien to collect that amount due.

EFFECTIVE DATE

This bill would be operative on and after July 1, 2000.

PROGRAM HISTORY/BACKGROUND

Under FTB's current practice and the personal income tax automated billing system, a statement of tax due is the first notice mailed to the taxpayer. If the debt remains unpaid, FTB generally will mail a notice stating that unless payment is made collection action may be taken (final notice of tax due). This notice provides a general statement as to the type of collection actions that FTB may take, which may include the filing or recording of a lien, garnishing of wages, or attaching bank accounts. Once the billing cycle within the system commences, if an account requires adjustments or correspondence with the taxpayer to resolve a matter, FTB staff may hold in abeyance the collection of the account. This causes the billing cycle to be deferred, delayed or otherwise suspended. If at the end of the holding period, the account remains unpaid, the billing cycle resumes.

FTB is in the process of designing a new automated accounts receivable collection system (ARCS). ARCS is scheduled for implementation during late fiscal year 1999/00 (March 2000).

SPECIFIC FINDINGS

Under FTB's existing billing system, if FTB holds in abeyance the collection of a final amount due, pending adjustments or correspondence, upon expiration of that holding period the billing cycle resumes if an amount due remains unpaid. Therefore, if the "hold" is placed on a tax year after the issuance of the final notice of tax due, but before the issuance of the levy or notice of state tax lien, the levy or notice of lien is issued without further notice to the taxpayer once the holding period expires. A notice of state tax lien typically is issued by FTB to the county of residence for recording or the Secretary of State for filing.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
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<u> </u> N	<u> </u> OUA	<u> X </u> PENDING

Department Director

Date

Gerald Goldberg

4/22/1999

Under this bill if a hold is placed for more than six months, a final notice of tax due would be required to be mailed to the taxpayer at least 30 days before a levy can be issued or notice of state tax lien filed.

Implementation Considerations

The bill would be implemented in conjunction with ARCS. Staff anticipates this bill would not be problematic for the department to implement.

Technically Consideration

FTB issues notices of state tax lien, which are subsequently recorded or filed by the county recorder or Secretary of State, respectively. In the first sentence in Section 21015.5, "filing" should be deleted. In the second sentence, after "filing" insert "or recording."

FISCAL IMPACT

Delaying the issuance of the levy or state tax lien until notice is given would not significantly increase departmental costs or impact tax revenue.

BOARD POSITION

Pending.